IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO 2102 OF 1992
WITH
CIVIL APPLICATION NO. 3166 OF 2005

Sau. Meena Vishnu Ratnaparkhi,
Occupation-Education, Class-
Teacher and Household,
House No. 511, Raviwar Peth,
Pune - 2. ..Petitioner
Orig.Pltf.

Vs.
Dattatraya Govind Waware
Since deceased thourgh his
Legal heirs and representatives.

1A) Smt. Suman Dattatraya Waware,
Occupation- Housewife.

1B) Shri Suresh Dattatraya Waware,
Occupation-Service.

1C) Rajesh Dattatraya Waware,
Occupation-Service.

All residing at C/o Smt. Suman
Dattatraya Wavare House No. 511,
Raviwar Peth, Pune- 411 002. ..Respondents.
Org.Deft.

Mrs. Shhasini Mutalik for the petitioner
Mr. S.J. Rairkar for the resondent Nos. 1a to 1 c.

CORAM : ANOOP V.MOHTA J.

DATE : 7TH JULY, 2005.

ORAL JUDGMENT.

. The petitioner-landlord has invoked Article 227 of the Constitution of India and challenged the

concurrent findings recorded by the Courts below, whereby, the suit for possession against the respondents-tenants was dismissed and same was confirmed by the appellate Court on all counts i.e. defaulter, nuisance and bonafide need.

2. Heard the learned Counsel, appearing for the parties. Mr. Rairkar, appearing for the respondents -tenants pointed out that by Civil Application No. 3166/1988, the respoondents-tenants are praying to bring on record the subsequent events Exhs. A and B. The Exh.A is pursis dated 17/6/1995, in common suit No.139/92 filed by the petitioner landlord for possession against the other tenants. The said pursis reflects that the matter was settled out of the Court between the parties. It means the landlord, in view of this settlement, must have got possession of the additional premises. Exh." C" is the marriage invitation, reflects the marriage of one of the daughters of the petitioner-landlord. The contents of the said Exhs. C, A remained unchallenged. As per order dated 19/6/1998, passed by this Court, the present civil application is therefore, also heard along with the main writ petition. The Apex Court has held in the

matter of landlord-tenant relationship, the subsequent events, if it goes to the root of the matter and affect the reasoning given by the Courts below, needs to be considered. **1988 S.C.C. 131 (Ramdas V. Ishwarchand Deo)**

3. After considering the rival contentions between the parties, as these undisputed subsequent events are based on the material on the record, therefore, at this stage itself, I am inclined to consider the same. The respondent-tenant has filed this civil application to substantiate and support the reasoning given by the Courts below and additional factors that the petitioner-landlord, apart from the concurrent finding given by the Courts below, is not in need of the premises in question.

4. Both the Courts below, after considering the evidence led by the parties, as well as, the material placed on the record held that the landlord failed to prove that the tenant-respondents are defaulters, or caused any nuisance, and further observed that the landlord failed to prove the bonafide and reasonable need.

5. The undisputed facts are that the petitioenr-landlord let his house No. 511, situated at Raviwar Peth, Pune. The respondent is the tenant in respect of the suit premises i.e. two rooms with the gallery. The petitioner-landlady occupied and staying in two rooms on the first floor in the suit house along with her husband and three daughters, at the relevant time, aged 32 years, 17 years and 12 years and were young and educated. Therefore,they required more premises for use and occupation. There is a material on the record to show that there were number of civil suits filed by the landlady against the other tenants for the possession on various grounds. The learned Counsel appearing for the petitioner pointed out that all these suits were not on the foundation of bonafide need, as such. However, there is no dispute that various suits have been filed against the other tenants for eviction.

6. The one of the suit, as pointed out earlier, was decreed in favour of the landlady-petitioner. This aspect cannot be over looked, that the landlady may not be now in need of the suit premises, as sought to be contended at the relevant time. The additional factor,

as borne out from the record that out of three daughters two daughters have already married and third daughter married in the year 1970.There is nothing to prove that need is still subsist. This factor also supports the concurrent findings given by the Courts below, whereby the landlady prayer for bonafide need was rejected.

7. The other grounds which are confirmed by the Courts below are not urged and rightly so being concurrent findings based on the materials.

8. Even otherwise, after going through the reasoning given by the Courts below, I am of the view, that the conclusion arrieved at cannot be said to be perverse or unreasonable or incorrect. The view appears to be reasonable and within the frame work of the law, as well as, record.

9. Taking into account the above factors, the petition is dismissed. Rule discharged.The Civil Application is disposed of. The interim relief, as granted vacated. No order as to costs.

[ANOOP V. MOHTA, J.]